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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 130312235-3658-02]

RIN 0648-XC982

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic;
2013 Commercial Accountability Measure and Closure for South
Atlantic Red Porgy

AGENCY: National Marine Fisheries Service (NMFS), National
Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; closure.

SUMMARY: NMFS implements accountability measures (AMs) for the commercial sector for red porgy in the exclusive economic zone (EEZ) of the South Atlantic. Commercial landings for red porgy, as estimated by the Science Research Director (SRD), are projected to reach the commercial annual catch limit (ACL) on December 2, 2013. Therefore, NMFS closes the commercial sector for red porgy in the South Atlantic EEZ on December 2, 2013, and it will remain closed through December 31, 2013. This closure is necessary to protect the red porgy resource.

DATES: This rule is effective 12:01 a.m., local time, December 2, 2013, until 12:01 a.m., local time, January 1, 2014.

FOR FURTHER INFORMATION CONTACT: Catherine Hayslip, telephone: 727-824-5305, e-mail: Catherine.Hayslip@noaa.gov.

SUPPLEMENTARY INFORMATION: The snapper-grouper fishery of the South Atlantic includes red porgy and is managed under the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (FMP). The FMP was prepared by the South Atlantic Fishery Management Council and is implemented under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622.

The commercial ACL (commercial quota) for red porgy in the South Atlantic is 147,115 lb (66,730 kg), gutted weight, for the current 2013 fishing year, as specified in 50 CFR 622.190(a)(6)(i).

In accordance with regulations at 50 CFR 622.193(v)(1)(i), NMFS is required to close the commercial sector for red porgy when its commercial ACL (commercial quota) has been reached, or is projected to be reached, by filing a notification to that effect with the Office of the Federal Register. NMFS has determined that the commercial ACL (commercial quota) for South Atlantic red porgy for the 2013 fishing year will have been

reached by December 2, 2013. Commercial harvest or possession of red porgy is prohibited during January - April each year. Accordingly, the commercial sector for South Atlantic red porgy is closed effective 12:01 a.m., local time, December 2, 2013, until 12:01 a.m., local time, May 1, 2014.

The operator of a vessel with a valid commercial vessel permit for South Atlantic snapper-grouper having red porgy onboard must have landed and bartered, traded, or sold such red porgy prior to 12:01 a.m., local time, December 2, 2013. During the closure, the bag limit specified in 50 CFR 622.187(b)(6) and the possession limits specified in 50 CFR 622.187(c)(2) apply to all harvest or possession of red porgy in or from the South Atlantic EEZ. During the closure, the sale or purchase of red porgy taken from the EEZ is prohibited. As specified in 50 CFR 622.190(c)(1)(i), the prohibition on sale or purchase does not apply to the sale or purchase of red porgy that were harvested, landed ashore, and sold prior to 12:01 a.m., local time, December 2, 2013, and were held in cold storage by a dealer or processor. For a person on board a vessel for which a Federal commercial or charter vessel/headboat permit for the South Atlantic snapper-grouper fishery has been issued, the sale and purchase provisions of the commercial closure for red porgy apply regardless of whether the fish are harvested in state or

Federal waters, as specified in 50 CFR 622.190(c)(1)(ii).

As specified in 50 CFR 622.184(c), during January, February, March, and April, the harvest or possession of red porgy in or from the South Atlantic EEZ is limited to three per person per day or three per person per trip, whichever is more restrictive. In addition, this limitation is applicable in the South Atlantic on board a vessel for which a valid Federal commercial or charter vessel/headboat permit for South Atlantic snapper-grouper has been issued without regard to where such red porgy were harvested. Such red porgy are subject to the prohibition on sale or purchase, as specified in § 622.192(f).

Classification

The Regional Administrator, Southeast Region, NMFS, has determined this temporary rule is necessary for the conservation and management of South Atlantic red porgy and is consistent with the Magnuson-Stevens Act, the FMP, and other applicable laws.

The temporary rule has been determined to be not significant for purposes of Executive Order 12866.

This action is taken under 50 CFR 622.193(v)(1)(i) and is exempt from review under Executive Order 12866.

This action responds to the best available scientific information recently obtained from the fishery. The Assistant

Administrator for Fisheries, NOAA, (AA), finds that the need to immediately implement this action to close the commercial sector for red porgy constitutes good cause to waive the requirements to provide prior notice and opportunity for public comment pursuant to the authority set forth in 5 U.S.C. 553(b)(B), as such procedures would be unnecessary and contrary to the public interest. Such procedures would be unnecessary because the rule itself has been subject to notice and comment, and all that remains is to notify the public of the closure. Allowing prior notice and opportunity for public comment is contrary to the public interest because of the need to immediately implement this action to protect red porgy since the capacity of the fishing fleet allows for rapid harvest of the commercial ACL (commercial quota). Prior notice and opportunity for public comment would require time and would likely result in a harvest well in excess of the established commercial ACL (commercial quota).

For the aforementioned reasons, the AA also finds good cause to waive the 30-day delay in the effectiveness of this action under 5 U.S.C. 553(d)(3).

Authority: 16 U.S.C. 1801 et seq.

Dated: November 25, 2013

Sean F. Corson,
Acting Deputy Director,
Office of Sustainable Fisheries,
National Marine Fisheries Service.

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